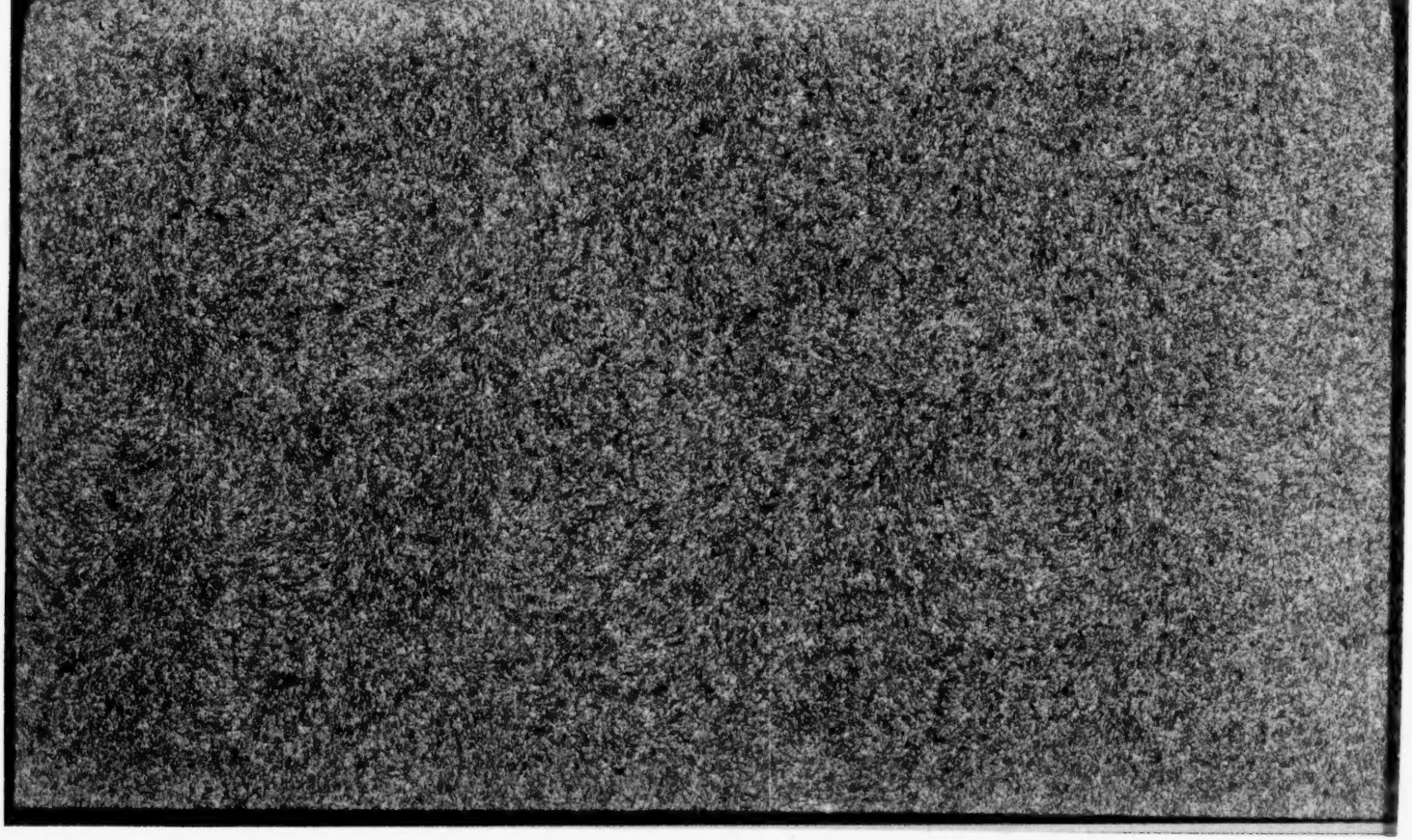

In the Supreme Court of the United States.

OCTOBER TERM, 1911.

THE UNITED STATES OF AMERICA, UPON the application of the Attorney General, at the request of the Interstate Commerce Commission, appellant, *v.* UNION STOCK YARD & TRANSIT COMPANY of Chicago, the Chicago Junction Railway Company, the Chicago Junction Railways and Union Stock Yards Company, and Louis Pfaelzer & Sons.	No. 1097.
CHICAGO JUNCTION RAILWAY COMPANY, appellant, *v.* THE UNITED STATES OF AMERICA, UPON the application of the Attorney General, at the request of the Interstate Commerce Commission.	No. 1098.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

MOTION TO ADVANCE.

Comes now the Solicitor General on behalf of the United States and moves the court to advance the above-entitled causes for hearing.

41146—12

The appeals are from a final order or decree of the Commerce Court entered March 8, 1912.

The following questions, among others, are involved:

1. Whether the Chicago Junction Railway Company, a corporation organized under the general railroad act of the State of Illinois, and operating a line of railroad located wholly within the city of Chicago, and engaged in the switching and handling of loaded and empty cars from the western trunk lines terminating at Chicago to the eastern trunk lines, and from the eastern trunk lines terminating at Chicago to the western trunk lines, said cars moving in interstate commerce; and in the receiving, delivering, handling, and switching of cars and freight, originating at points located on its line, or destined to points located on its line, to and from the said trunk lines, is a common carrier engaged in commerce among the several States and subject to the act to regulate commerce.

2. Whether the Union Stock Yard and Transit Company of Chicago, a corporation organized under a special act of the Legislature of the State of Illinois, for the purpose of conducting a stock-yard business, and a hotel business, and of owning and operating a railroad, which said railroad and equipment has, by agreement, been turned over to the Chicago Junction Railway Company to operate, the Stock Yard Company receiving two-thirds of the net earnings and having access to the books of the Junction Company through a single auditor for both companies, is a

common carrier engaged in commerce among the several States and subject to the act to regulate commerce.

3. Whether, by reason of the ownership of all of the capital stock of the Chicago Junction Railway Company and 90 per cent of the capital stock of the Union Stock Yard and Transit Company of Chicago, the Chicago Junction Railways and Union Stock Yards Company, organized for the purpose of holding the stocks of the two companies named, and which controls the boards of directors of the said two companies named, and the greater part of whose income is derived from dividends paid to it upon the shares of the stocks so owned, there is such an identity of ownership, management, and control of a railroad as to subject said three companies to regulation as common carriers engaged in commerce among the several States under the act to regulate commerce.

4. Whether or not a certain transaction wherein the Union Stock Yard and Transit Company agrees to pay $50,000 to Louis Pfaelzer and Sons, a corporation, engaged in the slaughtering of live stock and the selling of the products thereof, in consideration that the said Louis Pfaelzer and Sons will construct and maintain for a certain specified time a packing plant within the Union Stock Yards on the line of said railroad, constitutes a concession, rebate, or unlawful discrimination, whereby the property of said Louis Pfaelzer and Sons is by device transported in interstate commerce at less charges than are collected from and paid by other shippers

for the same service between the same points and at less than the tariff charges, within the meaning of the act to regulate commerce, or certain provisions thereof.

5. Whether the Commerce Court has jurisdiction to hear and determine the question herein last above referred to.

Public interests are involved and the priority suggested is authorized by section 2 of the act of June 18, 1910 (36 Stat. 539, 542).

Opposing counsel concur in the motion to advance.

F. W. LEHMANN,
Solicitor General.

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STIPULATION AS TO FACTS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

Office Supreme Court, U. S.
FILED.
OCT 21 1912
JAMES H. McKENN

No. 621.

THE UNITED STATES OF AMERICA, UPON THE APPLICATION OF THE ATTORNEY GENERAL AT THE REQUEST OF THE INTERSTATE COMMERCE COMMISSION, APPELLANT,

vs.

UNION STOCK YARD & TRANSIT COMPANY OF CHICAGO ET AL.

No. 622.

THE CHICAGO JUNCTION RAILWAY COMPANY, APPELLANT,

vs.

THE UNITED STATES OF AMERICA, UPON THE APPLICATION OF THE ATTORNEY GENERAL, AT THE REQUEST OF THE INTERSTATE COMMERCE COMMISSION.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

STIPULATION FILED OCTOBER 21, 1912.

(23173 AND 23174.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM. 1912.

No. 621.

THE UNITED STATES OF AMERICA, UPON THE APPLICATION OF THE ATTORNEY GENERAL, AT THE REQUEST OF THE INTERSTATE COMMERCE COMMISSION, APPELLANT.

vs.

UNION STOCK YARD & TRANSIT COMPANY OF CHICAGO ET AL.

No. 622.

THE CHICAGO JUNCTION RAILWAY COMPANY, APPELLANT.

vs.

THE UNITED STATES OF AMERICA, UPON THE APPLICATION OF THE ATTORNEY GENERAL, AT THE REQUEST OF THE INTERSTATE COMMERCE COMMISSION.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

In the Supreme Court of the United States, October Term, A. D. 1912.

UNITED STATES OF AMERICA ET AL., APPELLANT. *v.* UNION STOCK YARD & TRANSIT COMPANY ET AL., APPELLEES.	No. 621.
CHICAGO JUNCTION RAILWAY COMPANY, APPELLANT. *v.* UNITED STATES OF AMERICA, APPELLEE.	No. 622.

63692—12

Stipulation.

Prior to the year 1907, at which time the Junction Company divested itself of the ownership of that portion of its line of railroad operated by it in the State of Indiana, it had filed its tariffs with the Interstate Commerce Commission. On December 1st, 1907, being the date of the sale of that portion of its railroad running into Indiana, it legally cancelled said tariffs.

It was believed at the time the issues were joined in these cases by both the Government and the Junction Company that there were then no tariffs on file with the Interstate Commerce Commission of the Junction Company, which had not been cancelled, and the allegations of the bill and the answer of the Junction Company were based upon that belief.

Just prior to the hearing of these cases in the Commerce Court it was discovered that some tariffs of the Michigan Central Railroad Company on file with the commission, to which the Junction Company had attached its concurrence, had not been cancelled. At the time the Junction Company thought it had cancelled all tariffs on file with the commission, to wit, on December 1st, 1907.

The Junction Company in cancelling its tariffs had directed the cancellation of all tariffs to which it was a party, but the officer of the Junction Company having charge of the same through inadvertance failed to cancel the Junction Company's concurrence in said tariffs with the Michigan Central Railroad Company, and the latter tariffs were in effect at the time these cases were heard in the Commerce Court.

These facts were stated to the court verbally during the argument of these cases in the Commerce Court, coupled with the verbal agreement that if in the opinion of the judges they had any material bearing in the decision of this case, the court might consider them as being true.

The Government and the Junction Company desiring to acquaint this court with the actual facts in relation to such tariffs hereby agree, subject to the approval of this court, that if such facts, in the judgment of this court, are of any material importance in the decision of these cases, or any issue therein, they may be considered by the court as fully as if they were contained in the printed record filed herein.

WILLIAM E. LAMB,
Special Asst. to the Atty. General.
RALPH M. SHAW,
Solicitor for Chicago Junction Railway Company.
JESSE C. ADKINS,
Assistant Attorney General.

(Indorsed:) Nos. 621 and 622. In the Supreme Court of the United States. United States of America et al., appellant, v. Union

Stock Yard & Transit Company et al., appellee. Chicago Junction Railway Company, appellant, v. United States of America, appellee. Stipulation.

(Indorsement on cover:) File Nos. 23,173 & 23,174. Supreme Court U. S. October term, 1912. Term Nos. 621 & 622. The United States of America, upon the application of the *application of the* Attorney General, at the request of the Interstate Com. Comm'n, appellant, vs. Union Stock Yard & Transit Co. of Chicago et al. The Chicago Junction Ry. Co., appellant, vs. The United States of America upon the application of the Attorney General, at the request of the Interstate Com. Comm'n. Stipulation as to facts. Filed October 21, 1912.

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